

(c) Unsolicited proposals shall be submitted in an original and five copies at least six months in advance of the date the offeror desires to begin work so that there will be enough time to evaluate the proposal and negotiate a contract.

[50 FR 31320, Aug. 1, 1985, as amended at 55 FR 28207, July 10, 1990]

#### **4415.506-1 Receipt and initial review.**

(a) The Office of Acquisition Management shall acknowledge an unsolicited proposal. Simultaneously, copies of the proposal shall be sent to the appropriate program offices for evaluation.

(b) *Information Requirements.* The Office of Acquisition Management shall keep records of unsolicited proposals received and shall provide prompt status information to requestors. The records shall include, as a minimum, the number of unsolicited proposals received, funded, and rejected during the fiscal year, the identity of the proposers and the office to which each was referred. These numbers shall be broken out by source (large business, small business, university, or nonprofit institutions).

[50 FR 31320, Aug. 1, 1985, as amended at 55 FR 28207, July 10, 1990]

### **Subpart 4415.6—Source Selection**

SOURCE: 55 FR 28207, July 10, 1990, unless otherwise noted.

#### **4415.612 Formal source selection.**

##### **4415.612-70 Scope.**

(a) Formal source selection procedures shall apply to competitively negotiated acquisition when the estimated cost exceeds \$25,000.

(b) Formal source selection procedures do not apply to the acquisition of Architect-Engineer Services, acquisition from other Government agencies (including State and local), or any other acquisition which is specifically exempted by the Director.

#### **4415.612-71 Key participants.**

(a) A proposal evaluation team shall be formed to conduct the technical evaluation of proposals. For acquisitions estimated to cost \$10 million or

less, the team shall be called the Technical Evaluation Panel (TEP) and shall consist of at least three (3) voting members. For acquisitions in excess of \$10 million, or those whose estimated cost does not exceed \$10 million, but the selected source is likely to receive funding for future phase(s) of the same project, and the aggregate amount of such funding (including the current acquisition) is estimated to exceed \$10 million, the team shall be called the Source Evaluation Board (SEB) and shall consist of at least five (5) voting members.

(b) The Source Selection Official or the Contracting Officer, depending upon the dollar amount of the proposed award and any anticipated additions to it, shall select a source for contract award. For acquisitions estimated to exceed \$10 million, the program head, i.e., Associate Director/Administrator, of the acquiring office shall be the Source Selection Official. For acquisitions estimated to cost \$10 million or less, the Contracting Officer shall be the Source Selection Official.

### **Subpart 4415.8—Price Negotiation**

#### **4415.803 General.**

When all efforts to get a contractor to agree to a reasonable price or fee have failed, the contracting officer shall refer the matter to the head of the contracting activity.

### **Subpart 4415.10—Preaward, Award and Postaward Notifications, Protests, and Mistakes**

#### **4415.1003 Debriefing of unsuccessful offerors.**

Any unsuccessful offeror may write for a debriefing within two months after contract award. The contracting officer shall provide the debriefing.

## **PART 4416—TYPES OF CONTRACTS**

### **Subpart 4416.3—Cost-Reimbursement Contracts**

Sec.

4416.303 Cost-sharing contracts.

**Subpart 4416.6—Time-and-Materials,  
Labor-Hour, and Letter Contracts**

4416.603 Letter contracts.  
4416.603-3 Limitations.

AUTHORITY: 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978.

SOURCE: 50 FR 31321, Aug. 1, 1985, unless otherwise noted.

**Subpart 4416.3—Cost-  
Reimbursement Contracts**

**4416.303 Cost-sharing contracts.**

(a) This subsection sets forth basis guidelines governing cost-sharing contract.

(b)(1) Cost sharing with non-Federal organizations shall be encouraged in contracts for basic or applied research in which both parties have considerable interest.

(2) Contracting officers shall assure themselves of the following in determining contract type:

(i) The research effort has more than minor relevance to the non-Federal activities of the performing organization and is not primarily a service to the Government.

(ii) The performing organization has adequate non-Federal sources of funds from which to make a cash contribution.

(iii) The performing organization is engaged primarily in production or other service activities, as opposed to research and development, and is in a favorable position to make a cost contribution.

(iv) The principal purpose of the contract is research.

(v) Payment of the full cost of the project is not necessarily in order to obtain the services of the particular organization.

(3) FEMA's Appropriation Act requires cost sharing by the contractor under research contracts resulting from unsolicited proposals. See 4415.505-1.

(c) Guidelines for determining the amount of cost sharing.

(1) For educational institutions and other not-for-profit or non-profit organizations, cost sharing may vary from 1 to 50 percent of the costs of the project. In some cases it may be appropriate for educational institutions to

provide a higher degree of cost sharing, such as when the cost of the research consists primarily of the academic-year salary of faculty members, or when the equipment acquired by the institution for the project will be of significant value to the institution in its educational activities.

(2) The amount of cost participation by commercial or industrial organizations may vary from 1 percent or less to more than 50 percent of total project cost, depending upon the extent to which the research effort is likely to enhance the performing organization's capability, expertise, or competitive position, and the value of such enhancement to the performing organization. Recognize, however, that organizations predominately engaged in research and development with little other activity may not be able to derive a monetary benefit from the research under Federal agreements.

(3) A fee will usually not be paid to the performing organization if the organization is to contribute to the cost of the research effort, but the amount of cost sharing may be reduced to reflect the fact that the organization is foregoing normal fees on the research. However, if the research is expected to be of major value to the performing organization and if cost sharing is not required by statute, it may be appropriate for the performer to make a contribution in the form of a reduced fee rather than sharing the costs of the project.

(4) Each cost-sharing contract negotiated shall contain the clause in 4452.216-70.

[50 FR 31321, Aug. 1, 1985, as amended at 55 FR 28208, July 10, 1990]

**Subpart 4416.6—Time-and-Mate-  
rials, Labor-Hour, and Letter  
Contracts**

**4416.603 Letter contracts.**

**4416.603-3 Limitations.**

A letter contract may be used only if the head of the contracting activity executes a determination and finding that no other contract type is suitable.